vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

**CIVIL APPLICATION NO.153 OF 2006**
IN
**WRIT PETITION NO.3508 OF 2002**

A.K. Gaikwad ... Applicant

V/s.

PMC & Ors. ... Respondents

Mr.S.N. Chandrachud for Applicant
Mr.R.M. Pethe i/b R.G. Ketkar for Respondent Nos.1 & 2
Ms.Poonam Mahajaa for Respondents 3 to 5

CORAM: **V.G. PALSHIKAR, Ag.C.J &**
**SMT.NISHITA MHATRE, J.**

DATED: **JANUARY 25, 2006**

**P.C.:**

. By this Civil Application, the applicant seeks recalling of the order dated 28.3.2005. The order reads thus:

> . Mr.P.B. Shaligram, the learned counsel for the petitioner submits that the grievance of the petitioner no longer survives and the petitioner is not desirous of prosecuting the writ petition. He prays for withdrawal of the writ petition.
>
> 2. Writ Petition is allowed to be withdrawn.
>
> 3. Rule is discharged. No costs.

2. The submission made in the application is that the lawyer appearing for the Petitioner was not instructed to withdraw the Petition. We are unable to accept this submission for the reason that there is on record a letter dated 5.3.2005 addressed to the Petitioner by his lawyer wherein it is specifically mentioned that you have given oral instructions to withdraw the matter and since the matter is on Board, you may specifically instruct whether the petition should be prosecuted further or not. It also mentions that if necessary, you may consult the senior advocate you have engaged and then there is another communication in which it is specifically pointed out that inspite of the letter dated 5.3.2005, no instructions were received. The papers of the case were taken away from the advocate showing to somebody and, therefore, the submission was made as noted above.

3. In our opinion, there is no reason to accept the statement made by the applicant. Civil Application is dismissed.